

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

NICHOLAS QUEEN §
VS. § CIVIL ACTION NO. 1:07cv686
M. SCHULDT §

MEMORANDUM OPINION

Plaintiff Nicholas Queen, an inmate confined within the Bureau of Prisons, proceeding *pro se*, filed this civil rights lawsuit. Plaintiff alleges he has been deprived of access to certain legal materials. Plaintiff has filed a motion seeking leave to proceed with this lawsuit on an *in forma pauperis* basis.

Discussion

Title 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints on an *in forma pauperis* basis. Section 1915(g) provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [*in forma pauperis*] ... if the prisoner has, on three or more occasions ... brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Prior to the date on which he filed this lawsuit, at least four lawsuits filed by plaintiff were dismissed as frivolous.¹

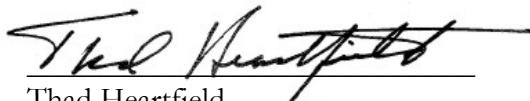
¹ *Queen v. The Federal Bureau of Investigation*, No. 2:04cv21 (E.D. Pa. Feb. 5, 2004) (dismissed as frivolous); *Queen v. Federal Bureau of Prisons*, No. 3:05cv2378 (M.D. Pa. Nov. 29, 2005) (dismissed as frivolous); *Queen v. Chambers*, No. 3:06cv615 (M.D. Pa. Apr. 16, 2006) (dismissed as frivolous); *Queen v. Hoekman*, No. 3:06cv1758 (M.D. Pa. Oct. 2, 2006) (dismissed as

The allegations set forth in plaintiff's complaint do not demonstrate that he was in "imminent danger of serious physical injury" on the date he filed his complaint. Section 1915(g) therefore bars plaintiff from proceeding further with this lawsuit on an *in forma pauperis* basis.

Conclusion

For the reasons set forth above, this lawsuit will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). A final judgment shall be entered in accordance with this memorandum opinion.

SIGNED this the 15 day of **October, 2007**.



Thad Heartfield
United States District Judge

frivolous).